

National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL
Advice Memorandum

DATE: February 20, 2001

TO: Philip E. Bloedorn, Acting Regional Director, Region 30

FROM: Barry J. Kearney, Associate General Counsel, Division of Advice

SUBJECT: Tower Automotive Products, Inc., Case 30-CA-15152

This Section 8(a)(5) case was resubmitted for advice on whether to withdraw the outstanding complaint because the parties have since bargained to full agreement on retaining the disputed unit work.

We conclude, in agreement with the Region, that the further processing of the outstanding complaint would not effectuate the purposes and policies of the Act.

On November 9, 2000, the Region issued a Section 8(a)(5) complaint alleging that the Employer unlawfully decided to manufacture the P-273 Ranger frame with nonunit employees on the view that this new manufacturing nevertheless constituted unit work, and the Employer's decision to relocate such work encompassed a mandatory subject of bargaining under *Dubuque*.⁽¹⁾ The parties subsequently bargained over an extension of their current collective-bargaining agreement. Retention of the above unit work was also a subject of these negotiations. In late December 2000, the parties reached full agreement on both an extension of their current agreement and also the manufacture of the disputed work by unit employees. The result of these negotiations received extensive press coverage, and the Employer's reversal of its prior decision was also announced to unit employees via an internal Employer memorandum.

The Employer has since filed an amended answer to the outstanding complaint, seeking its dismissal as "moot." The Charging Party Union objects to dismissal of the outstanding complaint on the ground that it is not legally "moot", and the Employer has not agreed to settle this case, which would entail the posting of a Board Notice.

We would not engage in the required extensive litigation of this case solely to achieve a remedy of notice posting, for several reasons. First, the Union is neither newly certified nor freshly recognized, but rather has represented the unit employees for many years in a mature bargaining relationship with the Employer. Thus, there is no special need for notice posting to fortify a newly established employee representative. Second, this dispute was resolved only after the Union filed the instant charge and then bargained with the Employer to full agreement. Thus this case does not involve unilateral remedial action by the Employer but rather mutual full agreement as envisioned by the outstanding complaint. Moreover, the employees are well aware of the Union's role in resolving the dispute thereby saving approximately 300 unit employee jobs.

Since the posting of a Board notice would provide little further affirmative relief for the parties in this case, we conclude that further lengthy litigation would not effectuate the purposes and policies of the Act.

B.J.K.

¹ See prior Advice Memorandum dated September 19, 2000.